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Examination of the situation of indigenous peoples and their participation in democracies and electoral processes in Latin America under the United Nations Declaration on the Rights of Indigenous Peoples

Note by the Secretariat

In accordance with the decision taken by the Permanent Forum on Indigenous Issues at its eleventh session (see E/2012/43, para. 114), the Forum decided to appoint Álvaro Pop to prepare a report on the participation of indigenous peoples in democracies and electoral processes in Latin America.

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Examination of the situation of indigenous peoples and their participation in democracies and electoral processes in Latin America under the United Nations Declaration on the Rights of Indigenous Peoples

I. Context

1. The indigenous peoples of Latin America have always been excluded from the democratic process. The liberal rights of citizens established in the constitutions of Latin American countries were not, and/or are not being, fulfilled as far as their indigenous populations are concerned. To a large extent, State actors in the past took steps to thwart the universalization of the citizens' rights set forth in the social covenants on which the republics of Latin America were founded.

2. With the end of the period of dictatorships and the transition to democratic States at the end of the 1980s, the indigenous peoples of Latin America increased their political activities, and the debate about how to transform elitist democracies into participative and inclusive ones began. These fledgling political forces emerged with the capacity to transform traditional power structures. Two factors in the region were decisive in facilitating the insertion of the indigenous peoples into politics: (a) the 500th anniversary of the colonization of the Americas; and (b) the establishment of electoral processes.

3. The indigenous peoples' insertion into politics featured the following common denominators: (a) the increasing openness of political regimes; (b) the favourable international climate; (c) the relational character of politics at the time, i.e. the instability of the elites in the face of collective action; and (d) the simultaneous weakening and instability of the elites, which facilitated the emergence of a new model for the participation of indigenous peoples. On the political front, the indigenous peoples found transnational allies who pushed for the establishment of standards, principles and procedures for indigenous peoples' rights. Their work was crucial for the establishment of the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169) and, subsequently, the United Nations Declaration on the Rights of Indigenous Peoples. At the same time, significant advances were made at the international level, most notably with the establishment of the Permanent Forum on Indigenous Issues and the figure of the Special Rapporteur on the rights of indigenous peoples, both at the United Nations.

4. Seizing the opportunities posed by the transition from military to democratic governments and those afforded by democracy itself, diverse indigenous peoples' organizations were founded. As they gained strength, their proposals, their demands and their claims intensified, and, as a direct result of their organizational capacity, the first reforms were introduced in a number of Latin American countries.

5. The ways in which indigenous organizations took advantage of the opening up of the political arena have varied from country to country, as has the impact of their actions. In the 1980s a "new type of constitutionalism"[1] emerged, and since then

[1] Salvador Martí i Puig, "Después de la década de los pueblos indígenas ¿qué? El impacto de los movimientos indígenas en las arenas políticas de América Latina." Article published in the journal *Nueva Sociedad*, No. 227 (May-June 2010).

calls have been made for constitutional reforms to establish general legal frameworks in which multi-ethnic, multicultural and multilingual societies are recognized. Hence the implementation in Mexico (in 2001 and 2011) and Ecuador (in 1998 and 2008) of multicultural constitutions that acknowledge the countries' diversity. The 1985 Constitution of Guatemala also recognizes the existence of diverse ethnic groups, but passing a constitutional reform that is in line with the rights of indigenous peoples continues to be a challenge.

6. In the 1990s, civil society, including indigenous peoples, launched a joint campaign against poverty and political and economic exclusion. Driven by poverty and the lack of attention on the part of the State to their needs, some communities started abandoning their territories to seek work elsewhere and settled on the outskirts of towns and cities. At the same time, demands for justice and for the respect of human rights increased. Indigenous organizations started to play major roles in politics, and indigenous involvement in political parties and in civic electoral committees became more visible.[2]

7. In Mexico, in 2001, the organization Ejército Zapatista de Liberación Nacional went beyond defending its local cause, namely the interests of the indigenous population of Chiapas State, to present itself as a national operator when it submitted a bill on indigenous rights and culture to Congress. The Government of President Vicente Fox acknowledged that dialogue and recognition of the rights of the impoverished indigenous population was the only way out of the political crisis that insurgent groups had generated. This set the course for indigenous peoples' participation in Mexican politics and led to the appointment of indigenous people to certain government posts. It also sparked considerable debate about the nation State, the rights of indigenous peoples and the validity of the democratic systems in place in many parts of the world. At the same time, light was shed on the exploitation, marginalization and abandonment that rural communities, especially indigenous ones, experience at a time when State action is weak in the face of the process set in motion by the free trade agreement between the United States of America, Canada and Mexico.

8. In Guatemala, Rigoberta Menchú, in recognition of her career defending the rights of indigenous peoples, was awarded the Nobel Peace Prize in 1992. In 1996, the Peace Accords were signed, marking the end of over three decades of internal armed conflict, notable among them the Agreement on Identity and Rights of Indigenous Peoples. The Peace Accords paved the way for constitutional reforms to be proposed in 1999; however, these were not adopted. In 2012, the current Government of President Otto Pérez also proposed constitutional reforms, but without achieving any positive results. In fact, the justice system suffered a setback when the case of the genocide of indigenous peoples, particularly the Ixil Mayans, was closed. The genocide had been acknowledged by the Commission for Historical Clarification, but the case was arbitrarily dismissed by the Constitutional Court in 2013. Over 60 per cent of indigenous Central Americans live in Guatemala, and it is in that country that a new mode of political participation is emerging, inspired by the practice of adopting community-level positions on mining and hydroelectric projects in indigenous territories. Over 60 legally valid popular consultations have

[2] Temporary political-electoral organizations that put forward candidates to stand for election to municipal bodies. In Guatemala, these have played a major role in increasing the indigenous population's participation.

been held, and the Constitutional Court has ruled that their results must be heeded; however, the Court's position on whether decisions on investments in indigenous territories can be reversed is unclear. Although founded only recently, the Winaq political movement is an example of political electoral participation that is giving rise to debate and concern in some social sectors and hope and expectancy in others.

9. In Ecuador the formation and activism of Confederación de Nacionalidades Indígenas del Ecuador (CONAIE) played a major role in the political defeats of Presidents Abdala Bucaram, Jamil Mahuad and Lucio Gutiérrez. In 1998 a new Constitution was passed that recognized cultural diversity and indigenous peoples' rights. And, for the first time, there was an indigenous candidate for the presidency of the country, Antonio Vargas Huatatoca of the party Movimiento de Unidad Plurinacional Pachakutik-Nuevo País. Although the participation of indigenous peoples in politics has increased, indigenous organizations and leaders are expressing concern that the indigenous movement is being manipulated and that its leaders are being co-opted by national commentators.

10. Beyond the three countries already mentioned, important events that showcase the capacity of indigenous people as political actors have occurred elsewhere in the region as well. For example, the election of the Aymara leader Evo Morales, of the party Movimiento al Socialismo, as the President of the Plurinational State of Bolivia in 2005 and his re-election in 2009 significantly altered the political scene. This extraordinary election result caused the traditional parties' strategic pacts to crumble[3] and brought about a landmark shift in the legal, historic, institutional, economic and cultural parameters of democracy in the country.[4]

11. Bolivian democracy ceased to be a concern of the elite and became a concern of peoples; it was reborn with a collective identity that legitimized participation in politics. That collective identity ended up deposing the individual one, the liberal concept of citizenship, whereby citizens were called upon to act only every four years; in other words, it deposed electoral democracy.[5]

12. The leading role played by indigenous peoples in the three aforementioned countries and the inclusion of their collective rights in discussions and debate in Latin America spelled the end of the invisibility of indigenous peoples, the enhancement of their status and the recognition of diverse societies. Nonetheless, the formal recognition of the rights of indigenous peoples, the impact on the welfare of individuals and the eradication of poverty, inequality and exclusion are still matters that need to be resolved in the region.

13. Electoral democracy in Latin America has largely limited indigenous peoples' involvement to the local, municipal and rural arenas and to the exercise of citizenship at a secondary level. In this way it has curbed their capacity for action, as well as their influence, at the national level, on the construction of the nation State.

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[3] Juan Carlos Quinteros Ramos, "Reflexión sobre la democracia boliviana". www.monografias.com/trabajos57/democracia-boliviana/democracia-boliviana.html.

[4] Idón Chivi Vargas, "Democracia en Bolivia: entre memoria política e historia constitucional", *La Gaceta Jurídica*, 9 October 2012. Available from www.la-razon.com/suplementos/la_gaceta_juridica/Democracia-Bolivia-politica-historia-constitucional_0_1702029876.html.

[5] Ramón Rocha Monroy, "Democracia a la boliviana", *Los Tiempos*, 9 February 2013. Available from www.lostiempos.com/diario/opiniones/columnistas/20130209/democracia-a-la-boliviana_201706_430771.html.

14. Indigenous peoples continue to claim their individual and collective rights under left- and right-wing regimes alike. In both cases they have problems achieving full recognition, since exclusion is apparently part of the ideological base. Although the Latin American left has made progress in recognizing multicultural actors, Governments at both ends of the political spectrum have yet to meet the challenge of building nations that protect the rights of indigenous peoples, especially as far as their rights to free, prior and informed consent, the end of paternalism and the full exercise of citizens' rights are concerned.

15. Latin American democracies are currently facing serious problems, including the poor quality and dwindling legitimacy of political parties and the public's loss of confidence in them, as well as corruption, the assumption of contradictory positions by the different branches of Government, electoral clientelism, rising inequality despite economic growth and the separation between citizens' rights and the simple exercise of voting, all of which demand major reforms of the political systems in place.

16. Despite the limitations they face, in terms of information and economic capacity, in a profoundly clientelist and burdensome system, where affairs are conducted only in Spanish regardless of the multilingual environment; despite the system being urban in scope when the population is rural; and despite the system's failure to take account of their geographical, climatic and cultural realities, societies, especially indigenous peoples, are becoming increasingly involved in electoral processes.

II. Ecuador

17. Ecuador[6] is a plurinational, heterogeneous, multicultural State, with 14 indigenous nationalities and 18 indigenous peoples living in its Sierra, Amazonian and coastal regions. According to the 2010 census, the total population numbers 14,483,399 people, 7 per cent of whom are indigenous persons, living predominantly in rural areas. Indigenous organizations and international agencies offer different estimates of the indigenous population, varying between 24 and 40 per cent.

18. According to the 2001 census, the incidence of poverty measured by unmet basic needs was 89.9 per cent among the indigenous population, compared to 45 per cent among the white and mestizo populations. In 2009, that indicator fell to 70.3 per cent for the indigenous population, but remained over 30 points higher than for other population groups (31.3 per cent for whites; 37.9 per cent for mestizos). There was also an increase in income poverty among indigenous people (from 36.8 per cent of the indigenous population in 2006 to 45.8 per cent in 2009).[7] The disproportionately high rates of poverty among indigenous peoples with respect to the national average reflect the historical ethnicity-based discrimination they face. In the international context, according to the United Nations Development Programme (UNDP) Human Development Report 2013, *The Rise of the South: Human Progress in a Diverse World*, Ecuador ranked 89th out of 186 countries, with

[6] Summary based on an internal document prepared by Ferrán Cabrero as input for this document.

[7] Juan Ponce and Alberto Acosta, "La pobreza en la 'revolución ciudadana' o ¿pobreza de revolución?", Centro Andino de Acción Popular (No. 81, December 2010), p. 7-19.

a human development index of 0.724 in 2012 — slightly below the 0.741 average for Latin America. Even so, Ecuador is a high income country, yet another reflection of its economic inequalities.

19. The "citizens' revolution" promoted by the current President, Rafael Correa, and the Alianza País movement has marked a turning point in Ecuadorian politics, with greater weight being given to the State and public expenditure. The most significant political change has been the adoption of the 2008 rights-based Constitution and the corresponding constitutional mechanisms for securing those rights. The Constitution is based on dialogue among the various social and political actors and, in an acknowledgement long demanded by the indigenous movement, it declares the country to be a plurinational and intercultural State (article 1).[8]

20. With the current Government, substantial progress has been made in the exercise of political rights, especially with regard to the entry of indigenous professionals into the diplomatic corps and other branches of the civil service. However, the Government's overall political project is moving forward in a climate of ambivalence and contradictions. On the one hand, there are examples of undeniable progress, such as the improvement and expansion of public infrastructure, particularly the road network, as well as hydropower plants (eight new plants have been built, including the landmark Coca Codo Sinclair), and the new airport in Quito. There has also been an increase in the budget for health and education, and the efficiency of State services has improved. On the other hand, some community and indigenous leaders and organizations view as a step backwards the fact that indigenous leaders have been co-opted or "burned" (*quema*)[9] as a result of their active involvement in a traditional political party and/or their acceptance and fulfilment of duties within State institutions. Examples include the creation of the Secretariat of Peoples, Social Movements and Citizen Participation, and the Ecuadorian Institute for Eco-development of the Amazon Region, which are seen as attempts to infiltrate and further divide the indigenous movement; the progressive dismantling or elimination of indigenous institutions such as the National Directorate for Bilingual Intercultural Education, the Intercultural Health Department and the Council for the Development of the Nationalities and Peoples of Ecuador; the inexcusable deferral of the right to prior consultation contained in the new Constitution; and the treatment of social protest as a judicial matter, involving repression and prosecution, according to statements by national indigenous leaders.

21. Contradictions with the development world view of indigenous peoples are evident in the adoption of a law on large-scale open cast mining; the "XI Oil Round" that launched the auction of 13 oil blocks in the Ecuadorian Amazon region (Pastaza and Morona-Santiago provinces) in November 2012; and the increasing tensions surrounding the right of indigenous peoples to prior consultation, not only with regard to the actions and mega-projects that directly affect their rights, but also in relation to proposed legislation such as the draft culture act, the draft water resources act, and the draft land act.

[8] "Ecuador is a constitutional State of rights and justice, social, democratic, sovereign, independent, unitary, intercultural, plurinational and secular. It is organized as a republic and is governed using a decentralized approach". Article 1, Constitution of the Republic of Ecuador, Title I: Constituent Elements of the State, chap. 1.

[9] "*Quema*" is a colloquial term used to express political wear and tear and the loss of credibility experienced by some leaders when they occupy government posts.

Reflections on indigenous participation

2013 electoral process

22. Indigenous voter participation in the 2013 electoral process was affected by the concentration of indigenous people in rural and remote areas, illiteracy (especially among women), problems with voter lists owing to international migration by indigenous persons and difficulties in updating the lists, and the lack of identity cards (personal identification documents).

23. The indigenous movement accuses the major parties of fragmenting its foundations through various strategies involving clientelism or the co-option of leaders while they are in government, including by distributing picks and shovels; appointing local indigenous officials to public posts; establishing forestry and agriculture partnership programmes, delivering urea and lambs, and expanding the Human Development Bond cash transfer programme. It should be stressed that few indigenous people have been included on the lists of National Assembly members of the parties most recently in power. The lack of data disaggregated by ethnicity has made it difficult to determine indigenous participation in the electoral process, not only as voters but also as candidates for election.

24. One of the conclusions of the 2013 electoral process was that indigenous people did not vote for the indigenous political movement; only 20 per cent of the cantons where indigenous people make up the majority of the population voted for Pachakutik. Why did the indigenous peoples of Ecuador not vote for the indigenous party? There are a number of assumptions, including: (a) structural factors relating to the indigenous movement, such as its inability to organize and unite large segments of society dissatisfied with traditional politics; its inability to regain influence with local constituencies co-opted by other political parties, particularly in the Sierra and Amazonian regions; and the weakening of CONAIE owing to its loss of relevance for grass-roots indigenous communities, and the limited capacity of its new leaders in public office; and (b) contextual factors such as the inability to avoid divisions among local candidates; the dubious benefit of an alliance with Movimiento Popular Democrático (associated with the "partitocracy" of the past and with clientelism); inadequate and belated policy communication strategies; and the impact of government policies, such as the Human Development Bond, on communities. In addition to these factors, the evident division and weakening of Pachakutik also caused dispersion and fragmentation of the indigenous vote.

Historical political participation

25. Indigenous organizations have been the foundation of the indigenous social movement. In the 1980s, indigenous organizations grew in strength and consolidated their demands in order to begin formulating indigenous proposals and an indigenous political vision. Ecuadorian indigenous peoples sought to streamline their efforts by establishing organizational groups, which then came together as CONAIE. Established in the 1980s as the leading umbrella organization for indigenous peoples, it is the only grouping that incorporates the demands of indigenous peoples and nationalities within its political vision.

26. The potential of indigenous peoples in politics gained greater national and international visibility as a result of Movimiento Pachakutik's six months in government in alliance with the party Sociedad Patriótica, following the presidential

elections that brought Colonel Lucio Gutiérrez to power. For example, for the first time ever, Ecuador had a Kichwa woman as Minister for Foreign Affairs, which was of historic significance both in Latin America and worldwide. The main reason for the breakdown of that alliance was the elected President's betrayal of campaign objectives, an experience that divided the indigenous movement.

27. The political participation of indigenous people in the capacity of provincial prefects, councillors, mayors and deputies demonstrates the level of democratization of the parties and the involvement of indigenous peoples in political decision-making forums. However, participation has been low and predominantly through Movimiento Pachakutik-Nuevo Pais.

28. In the 2013 legislative elections, only 5 of the 137 Assembly members were elected by the political movement Pachakutik-Nuevo País, three of whom self-identified as indigenous. In the 2009 elections, four Pachakutik representatives were elected; owing to the lack of data disaggregated by ethnicity, it would be a mistake to conclude that these four Assembly members were indigenous. Previous results show that the number of Pachakutik representatives fell from 3.22 per cent of the total in 2009 to 2.29 per cent in the 2013-2016 legislature.

29. The political participation of indigenous peoples in the State involved a process of internalization and recognition as subjects of law. That participation is part of a process that led indigenous peoples to demand and exercise their political rights, both as individuals and collectively.

30. Traditional political parties have included the issue of "indigenous peoples" and their demands in political and electoral discourse. However, in practice, their governmental plans do not contain any serious consideration of how to respond to the historical demands of indigenous peoples. Indigenous activists have also been excluded from decision-making; in particular they are placed last on the lists of candidates for elective office.

31. Pachakutik has been an open and inclusive forum that set an important precedent for the democratization of power and the participation of indigenous peoples in party politics, thereby redefining the Ecuadorian political arena.

III. Guatemala

32. Guatemala is a multi-ethnic, multilingual and multicultural country, in which three indigenous peoples (the Maya, Xinca and Garifuna) live alongside the non-indigenous population (creoles, whites and mestizos). The official language is Spanish; however, the National Languages Act (2003) recognizes, respects and requires the use of the languages of each linguistic community. The Act recognizes the existence of 25 languages, namely 22 Mayan languages, Xinca, Garifuna and Spanish, and defines the framework for public policies.[10]

33. According to the 2002 census (11,183,388 inhabitants), 41.3 per cent of the population is indigenous. The lack of statistical information disaggregated by

[10] Inputs drawn from: Misión Indígena de Observación Electoral, "Registro de 12 años de historia política electoral de Guatemala", *Ciudadanía intercultural: aportes desde la participación política de los pueblos indígenas en Latinoamérica* (Intercultural citizenship: contributions from the political participation of indigenous peoples in Latin America) (UNDP, 2013).

ethnicity has been a constraint; indigenous organizations claim that indigenous peoples account for a higher percentage of the total population than is indicated by the official figure. The indigenous population is concentrated in departments in western Guatemala (Totonicapán (97 per cent), Sololá (96 per cent), El Quiché (89 per cent) and Chimaltenango (78 per cent)) and the north of the country (Alta Verapaz (90 per cent) and Baja Verapaz (90 per cent)).

34. In Guatemala there are clear inequality gaps. The country has the highest per capita concentration of jets, helicopters and luxury cars. The highest quintile of the population has almost two thirds of national income, and the lowest quintile has only 3 per cent. The lack of economic competition and the enjoyment of privileges in return for political favours, as well as the speed at which money can be accumulated through illicit and criminal activities including drug trafficking, smuggling, money laundering, trafficking in persons and corruption, are rapidly increasing the inequality gap, with the result that clientelism is now the easiest route to upward mobility.

35. The Guatemalan Constitution of 1985 and the 1996 Peace Accords recognize Guatemala as a multi-ethnic, multicultural and multilingual nation. The historic importance of the Agreement on Identity and Rights of Indigenous Peoples is that it marked a watershed moment in the struggle of indigenous peoples to be recognized as full citizens, identified the pressing need for State reform with an intercultural approach, and required the construction of a nation with multicultural capacity. The Government pledged to promote legal and institutional reforms to facilitate, regulate and guarantee such participation; however, despite the efforts made in 1999 and the proposals revived in 2012 by President Pérez Molina, reform of the Constitution has yet to be achieved.

36. Although progress has been made in terms of the extent to which multiculturalism is recognized, respected and promoted in the Constitution and in the country's ordinary laws and regulatory acts, as well as its applicability through Government agencies, the Constitution and the Electoral and Political Parties Act do not yet incorporate the commitments of the Peace Accords; nor are they consistent with various international instruments, specifically ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples, which promote the active participation of indigenous peoples. They do not address multicultural and intercultural citizenship, which is a fundamental requirement in Guatemala owing to the multicultural, multi-ethnic and multilingual nature of its population.

Political participation of indigenous peoples

37. Election turnout has been increasing in Guatemala, with significant indigenous participation. Similarly, the number of candidates for elected positions has increased considerably and political parties have understood the electoral potential of putting forward Mayan candidates; not to mention the political space won by the indigenous peoples themselves. A positive factor that encouraged indigenous electoral turnout was the decentralization of voting with the establishment of new electoral constituencies in rural areas in 2007 and a further increase in their number in 2011.

38. Two indigenous men participated in the electoral process of 2007 as candidates for the presidency and vice-presidency.[11] The average national increase in the 2011

[11] Rigoberto Quemé was a candidate for President and Pablo Cuto for Vice-President.

electoral roll compared with 2007 was 23 per cent; however, the increase in departments with an indigenous majority was between 28 and 34 per cent. After the 1985 and 2007 elections, there was an increase in indigenous electoral turnout in 2011. While turnout averaged 69.38 per cent, in departments with an indigenous majority it was 74 per cent on average, and at the municipal level (where the indigenous population is above 80 per cent) it ranged from 80 to 92 per cent.

39. These increases in both the electoral roll and voter turnout can be interpreted in various ways; they could be seen to reflect the strengthening of citizenship and the exercise of the right to vote, or viewed as a result of clientelism during election campaigns. It should be recognized that the aim of the assistance programmes of the Government of President Álvaro Colom (2008-2012) was to mobilize the population, targeting identity cards, voter registration, voter mobilization and civic training as components of citizenship. However, it is important to analyse the indigenous and rural vote, since this determined the outcome of the 2007 presidential elections. Previous elections had been decided by urban voters and, in 2011, it was again the urban vote that decided the outcome of the presidential election.

40. In the 2011 presidential elections, two of the ten sets of candidates included indigenous women, as candidates for President and Vice-President respectively.[12] The participation of the Winaq party, the leading indigenous political party in the country, was particularly significant, because it demonstrated the existence of disenfranchising and racist stereotypes in certain sectors of Guatemalan society. The historic candidacy of the first indigenous woman, Rigoberta Menchú, to run for President in a Latin American country was also worthy of particular note.

41. Indigenous political participation in the legislature between 1999 and 2011 ranged from 10 to 13 per cent. The representation of indigenous women in the same period fluctuated between 0.6 and 2.5 per cent. At the municipal level, on average 35 per cent of municipalities were won by indigenous candidates between 2003 and 2011. The current President appointed only one indigenous minister and two indigenous governors (out of 22). This reflects the underrepresentation of the 41.3 per cent of the Guatemalan population that is indigenous.

42. The main factors limiting political participation by indigenous peoples have been monolingualism, illiteracy, a lack of knowledge about the electoral system, a lack of information on where and how to cast a vote, poor polling station infrastructure, a lack of democratization in temporary electoral bodies, political clientelism, busing-in of voters and discrimination against women and the elderly. These are in addition to other problems such as identity fraud, the distribution of political propaganda on the day of the election, the failure to use local languages to convey election results and the funding system for political parties.

Reflections on political participation

43. Although considerable progress has been made in the Supreme Electoral Tribunal in terms of logistics and technical mechanisms, racism and discrimination against indigenous peoples persist. Despite efforts to establish and increase the number of municipal electoral constituencies in order to make polling stations more

[12] The presidential candidacy of Nobel Peace Prize winner Rigoberta Menchú of the Winaq party and the vice-presidential candidacy of Laura Reyes, nominated by Partido Renovación Democrática.

accessible in rural areas, the infrastructure and voter processing conditions entail serious disadvantages compared to urban centres.

44. Discriminatory practices towards indigenous peoples remain widespread and structural, reducing these people to the status of second-class citizens, as documented in the four national reports of the Misión Indígena de Observación Electoral (electoral observation body in Guatemala); such discrimination is evidenced by the limitations faced, in terms of information and economic capacity, in a profoundly clientelist and burdensome political party system, where affairs are conducted only in Spanish regardless of the multilingual environment; which is urban in scope when the population is rural; and which fails to take account of geographical, climatic and cultural realities. This scourge of Guatemalan society can also be seen in the infrequency with which indigenous persons, especially indigenous women, are elected to public office. In four electoral cycles, the largest proportion of indigenous representatives in the Congress has been 13 per cent, and the figure for indigenous women is 2.5 per cent. Youth have been mobilized to provide logistical support but have no scope for real participation.

45. One of the achievements of the indigenous movement has been the inclusion of indigenous issues in public policy debates. Participation in general, local and district elections has increased. However, there is a need to analyse the quality of the indigenous vote to determine whether it is an informed vote or a vote influenced by clientelism during election campaigns. When indigenous candidates do run, it tends to be for low-level positions that they have little chance of winning. The challenge is to improve the conditions for participating in and the chances of winning elections, and ensure greater access to government.

46. The presence of the Winaq political movement is a sign of progress in the dynamics of Guatemalan party politics and shows that indigenous peoples are capable of setting up a political party and winning seats. Winaq was founded by Rigoberta Menchú. With a diverse membership and inspired by the philosophy of "people's power", it intends to transform the political system into a democracy that reflects the realities of its population. The first time it took part in an election, in coalition with a leftist party in 1997, it won 2.77 per cent of the vote in the presidential election and one seat in Congress. In 2011, the first time it participated as a political party, joining with other left-wing parties to form the Frente Amplio movement, it obtained 3.2 per cent of the vote in the presidential election and won one seat in Congress.

47. Winaq has been held back by its participation in a political party system characterized by million-dollar election campaigns, political clientelism and privately funded parties that have preferential access to communication media.

IV. Mexico

48. Mexico[13] is a multicultural country of 68 indigenous peoples, speaking 364 linguistic varieties.[14] According to the population and housing census carried out in 2010 by the National Institute of Statistics and Geography, 6.9 million people

[13] Summary taken from consultation on electoral observation in regions with an indigenous population (Victor Leonel Juan Martinez).

[14] National Commission for the Development of Indigenous Peoples.

speak one of the country's 68 indigenous languages and 11.1 million live in an indigenous household, amounting to 9.9 per cent of the population. The results of the expanded questionnaire, conducted alongside the basic questionnaire for the 2010 census, show that 15.7 million people self-identify as indigenous people.[15] The country's indigenous population is concentrated in six states in the south and south-east. Oaxaca is the state with the largest number of indigenous people, followed by the States of Chiapas, Veracruz and Puebla, with more than 1 million, and the States of México and Yucatán, with more than 985,000.

49. In 624 of the country's 2,456 municipalities, more than 40 per cent of the inhabitants are indigenous people, accounting for 58.3 per cent of the country's indigenous citizens, although most indigenous people live in the rural parts of those municipalities.

50. Regarding development, all of the indicators in the census show that the living standards of indigenous people remain below the national average. In 2010, the extreme poverty rate among indigenous people was 39 per cent, whereas the national average was 10.5 per cent; and the illiteracy rate among indigenous people was 21.5 per cent, whereas the national average was 6.9 per cent. Development indicators for indigenous peoples in general differ significantly from those of the rest of the population. The UNDP 2013 Human Development Report, entitled *The Rise of the South: Human Progress in a Diverse World*, ranked Mexico 61st out of 186 countries, with a human development index of 0.775, which is high and significantly better than the Latin American average of 0.741. However, that clearly reveals the inequalities in the application of public policy and the historical exclusion of indigenous peoples.

51. The Government of Mexico acknowledges the cultural diversity and rights of indigenous peoples in the country's Constitution and in related international instruments.

52. As a result of the constitutional amendments of 2011, judges must give pre-eminence to the human rights enshrined in the Mexican Constitution and the international treaties to which the Mexican State is party, above any other contrary regulation. Rulings issued by the Mexican Supreme Court of Justice constitute binding precedents.

Political participation of indigenous peoples

53. Article 2 of the Constitution states that indigenous peoples have the autonomy to elect, in accordance with their traditional rules, procedures and practices, their own authorities and representatives for the exercise of their own systems of governance. It therefore guarantees indigenous communities the right to elect their authorities in accordance with their own regulatory systems. With that protection, elections in indigenous communities and municipalities can be governed by their

[15] Indigenous population means all persons living in an "indigenous household", where the head of the household, his or her spouse and/or one of his or her ascendants (mother or father, stepmother or stepfather, grandmother or grandfather, great-grandmother or great-grandfather, great-great-grandfather or great-great-grandmother , mother-in-law or father-in-law), stated that he or she was a speaker of an indigenous language. It also includes persons who stated that they spoke an indigenous language who are not members of such households. This criterion was used for the 2010 population and housing census of the National Institute of Statistics and Geography.

internal regulatory systems, by the system of political parties or by mixed models. However, that is not yet a reality.

54. A study carried out by the network of electoral observers in Chiapas points to the manipulation of women political leaders, widespread bribery, women's perception of campaigns based on constructed images of candidates and election promises; the structural conditions of women's poverty, sexist language, abuse of the image of indigenous women in campaigns, differences in journalistic coverage of male and female candidates; and, of course, the failure to take account of gender-related issues in the construction of speeches and campaigns. The study poses the question of whether participation by indigenous women in elections constitutes the exercise of their political rights or an expression of coercion and vote-buying. Also, political parties use intimidation and anti-poverty programmes for electoral purposes, buy voter identification cards or exchange votes for short-term goods. In other words, they engage in political clientelism.

55. Current Mexican electoral dynamics are two-faceted: federal, state or municipal elections are conducted in accordance with the processes inherent in a liberal representative democracy, while respecting and being aligned with traditional indigenous political practices and models of participatory democracy: meanwhile, indigenous peoples exercise their right to self-determination and autonomy in choosing their own government at the community level. Indigenous peoples exercise their civic right under the two systems recognized in the Constitution: in the traditional system in the context of collective, multicultural and ethnic citizenship, and in the democratic system in the context of liberal citizenship through the ballot box. Such electoral practices demonstrate the coexistence of two distinct ways of envisioning and exercising citizenship; this two-faceted process is slowly but surely being implemented.

56. Indigenous peoples' political rights are exercised differently at the community, municipality, state and federal levels. The government and electoral systems in place at the community level are not enshrined in the federal Constitution. However, the community level is recognized by various federal states and it is an important aspect of their political organization. This is the case in the States of San Luis Potosí (which recognizes "communities"), Guerrero ("commissaries"), Yucatán ("the people"), Tabasco ("integrated centres"), Tlaxcala ("auxiliary presidencies") and Oaxaca ("the community").

57. Despite their significant presence in the country, there is little participation by indigenous people in the legislature and they have a sketchy presence on the radar of Mexican political parties. To date in Mexico there are no indigenous political parties or independent candidates, limiting the likelihood of indigenous representation at the federal or national levels.

58. Since the end of the 1990s, attempts have been made to encourage indigenous people to stand as candidates in elections to the lower and upper chambers of the Mexican Congress. Proposals have included the establishment of a sixth electoral constituency for indigenous candidates; obliging political parties to guarantee participation by indigenous people in electoral districts where they account for more than 40 per cent of the total population; and proportional representation seats in Congress for indigenous people or the obligation for political parties or coalitions to submit lists containing indigenous candidates to the Federal Electoral Institute.

59. In February 2005, the General Board of the Federal Electoral Institute approved the boundaries of the 300 electoral districts into which Mexico is divided and the indigenous population was included for the first time. As a result, there are now 28 indigenous electoral districts where indigenous people account for 40 per cent or more of the population.

60. In the regional or national political context, communities with legitimate and stable regulatory systems are able to keep their individual party preferences separate from those systems. In other words, such preferences come into play in elections external to the community (municipalities, state legislatures and governorships, and the legislature, senate or the federal presidency) and political parties are not seen as a threat to the stability of the community; party committees or structures even exist in some communities.

61. Votes in external elections may sometimes be collectively agreed in favour of one or another party; or they may be swayed by manipulation by community leaders or external political operators. They may also constitute a collective mechanism for analysing the best option, the one most likely to benefit the community with public works or resources.

62. On the other hand, in communities whose regulatory systems have been weakened by conflict or where there are long-standing ideological differences and positions, group or party political identities do play a fundamental role in elections, in political jockeying and in candidates' proposals. The presence of political parties cannot be written off as the underlying factor in community rifts, although that can sometimes be the case.

Reflections on the political participation of indigenous peoples

63. The indigenous movement has no doubt that the struggle for self-determination must inevitably be played out in the fight for political power at the municipal level; once power is in the hands of communities, programmes can be designed in accordance with their basic needs.

64. Although the legislation of various states enshrines the right to political autonomy, in practice it is unfeasible. The exception is the State of Oaxaca, where in seven elections, 418 municipalities have voted for their councils in accordance with their own internal regulatory systems, which represents an important step forward in terms of politics and the electoral system, and an essential one for any democratic state.

65. Indigenous leaders who aspire to take a seat in state congresses do so through a political party, whether at the national or state level. Membership of those parties depends on their openness and/or that of the indigenous leaders themselves. Mexico is currently debating whether to establish state indigenous parliaments or special electoral constituencies.

66. The political participation of indigenous people in the official electoral system is part of that debate and entails various challenges because the proposed establishment of independent candidacies ushers in a range of possibilities for political representation outside of traditional political parties. Movimiento Indígena Nacional proposes a constitutional amendment to create indigenous constituencies from which "plurinominal" legislators would be drawn; such legislators would not

be directly elected but would be assigned to seats on the basis of proportional representation.

V. General reflections

> It is not easy in a short space of time to change centuries of ethnocentric and racist views, of exclusionary political practice and theory that has resulted in an undemocratic democracy.
>
> Víctor Hugo Cárdenas
> Bolivian sociologist and politician with an indigenous heritage

67. The main measure of progress in the dominant Latin American economic model is gross domestic product, a parameter that has distorted the true meaning of progress and well-being. Harm to ecosystems, the loss of biological diversity and the erosion of cultural and linguistic diversity — all results of the failure of the economic model — are not shown on such a balance sheet.

68. In the UNDP Human Development Report 2013, the use of the phrase "the rise of the South" indicates that inequality has declined in underdeveloped countries and that the large economies have developed rapidly, thereby improving the living conditions of their populations. However, although inequalities are declining in the Latin American region and progress has been made at the regional level towards meeting the targets established under the Millennium Development Goals, the region's indigenous peoples have been left behind. The human development index for indigenous peoples in the countries studied is significantly lower than the national averages.

69. In recent decades, the indigenous peoples of Latin America have seriously called into question current development models and the type of democracy resulting from them. From being mere social participants, they have become active political participants who have increasingly called their societies to account, accusing them of being exclusionary, racist and unaware of history, and of refusing to see the diversity and acknowledge the existence of social participants with a different culture and world view from the homogenizing and integrationist State model. The challenge facing Latin American democracies is to listen to these arguments and take real steps to bring about change. However, the indigenous peoples, especially indigenous women and youth, must also make their voices heard and influence governments to ensure that their political rights are respected and can be exercised. This must be the focus of the debate about rebuilding States on new foundations, supported by the stand taken by indigenous peoples at the local level, as evident in the various forms of organization that exist.

70. Electoral processes, as the most visible aspect of democracies, are the last link in the chain of democratic institutions; however, some Latin American democracies have descended into mere electoralism, as demonstrated by the limitations, in terms of information and economic capacity, of a profoundly clientelist and burdensome system, in which affairs are conducted only in Spanish regardless of the multilingual environment; which is urban in scope when the population is rural; and which fails to take account of geographical, climatic and cultural realities.

71. Pachakutik is for Ecuador what Xel-ju is for the K'iche' population of Quetzaltenango, an expression of political dignity for Guatemala. In other words, beyond the actual electoral results, it demonstrates the capacity of indigenous leaders to participate and compete in burdensome, clientelist, monocultural electoral systems, bringing a new focus that is rejuvenating indigenous political life and renewing its values. The need to develop new electoral strategies and frameworks was, however, evident in the 2013 elections.

72. In other words, the goal of democracy in Latin America has not yet been fully reached; the democracy experienced by indigenous peoples, expressed in the context of elections, has fostered inequality and inequity and has been implemented by racist, exclusionary and high-handed Governments.

73. Nonetheless, in the countries analysed, there has been progress in electoral democracy, if this is understood as the democracy that citizens periodically exercise when they elect mayors, deputies, governors and presidents; in other words, when they choose a candidate from a list prepared by the real decision makers. In its ideal form, a democracy, through the exercise of the civic right to vote and to be elected through a ballot, presupposes that citizens, by voting, choose who will represent them and place their confidence in their representatives in the hope that they will take decisions for the common good in their exercise of power.

74. Indigenous peoples have participated in the political process ever since democratic systems were established in Latin America, although in some cases such participation has been individual, through involvement in various political parties. However, the participation of indigenous peoples in civic committees in Guatemala and in the diverse expressions of political organization characteristic of ancestral peoples in both Mexico and Guatemala, is of particular note. The Guatemalan civic committees are a social movement expressing different political values from those of the traditional political parties, especially at the local level. As for the various forms of community organization and ancestral authority, these have played a vital holistic role in fostering local well-being.

75. A concern to have indigenous political projects constructed for and by indigenous people, corresponding to the needs of those peoples and of groups traditionally excluded from public policy, has been born out of experiences of electoral participation in traditional political parties. In other words, such experiences have given rise to a need to create inclusive democracies that correspond to the characteristics of multi-ethnic, multilingual and multicultural societies. Experiences with the Pachakutik political movement in Ecuador (launched in 1995) and the Winaq political movement in Guatemala (launched in 2007) are significant in this regard. In particular, the local political participation of the Xel-jú civic committee (a K'iche' Mayan indigenous-based organization), established in 1972 in Quetzaltenango, Guatemala, should be highlighted. This civic committee is the country's oldest political organization; it has been a school for political training and won the mayoral elections in two consecutive periods.

76. Despite the advances and achievements of indigenous peoples with regard to inclusion and political participation, the creation of public institutions and the existence of international instruments — such as ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples — there are still challenges that indigenous peoples need to overcome in order to make political

participation the best vehicle for progressing towards the fulfilment of their demands and improving democracy. In particular, indigenous peoples need to:

(a) Influence the legal reforms needed for recognition of their rights and acknowledgement of the intercultural nature of States. In this regard, constitutional and/or electoral reforms are vital. Constitutional reforms are needed to ensure recognition of the right to self-determination and autonomy of peoples. The evaluation of compliance with the United Nations Declaration on the Rights of Indigenous Peoples in Guatemala clearly reflected the need for a national constituent assembly with full indigenous participation. With regard to electoral reform, it is vital to change the system of financing political parties and electoral campaigns, and open up genuine opportunities for participation by indigenous peoples, women and youth, both in political parties and local civic committees and in the various public institutions implementing electoral processes. This means building the necessary capacity to connect local realities with national and regional construction processes, taking into account the wider Latin American and global contexts, and, when required, recognizing community-based autonomy and ancestral authority in ongoing respectful dialogue with national political systems;

(b) Value and promote women's leadership development and capacity-building, bearing in mind that, at present, male leaders are given priority over female leaders;

(c) In relation to administrative and legislative decisions, establish mechanisms for binding political dialogue between indigenous peoples, private initiative, parliaments and Governments, in order to minimize the conflicts generated by the exploration and exploitation of current strategic resources — water, forests and subsoil assets — located in the territories of indigenous peoples;

(d) Recognize and respect different citizenships, in other words, recognize intercultural democracies that are conducive to the full participation of indigenous peoples in the creation and implementation of laws, in the recognition of indigenous peoples' own mechanisms, in the command structures of the institutions established and in public policy planning.